



**SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
SPECIAL SESSION—FRESNO
OCTOBER 5 and 6, 2010**

The following cases are placed upon the calendar of the Supreme Court for hearing at its Special Session at the Court of Appeal, Fifth Appellate District, 2424 Ventura Street, Fresno, California, on October 5 and 6, 2010.

TUESDAY, OCTOBER 5, 2010—9:00 A.M.

Opening Remarks: Historic Special Session

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| (1) | S167791 | Martinez et al. v. Regents of the University of California et al. |
| (2) | S166600 | People v. Diaz (Gregory) |

1:30 P.M.

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| (3) | S170758 | Pineda v. Bank of America, N.A. (<i>Chin, J., not participating; Richli, J., assigned justice pro tempore</i>) |
| (4) | S163905 | People v. Albillar (Albert Andrew) et al. |
| (5) | S058025 | People v. Foster (Richard Don) [Automatic Appeal] |

WEDNESDAY, OCTOBER 6, 2010—9:00 A.M.

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| (6) | S175855 | Conservatorship of Whitley (Roy) |
| (7) | S175307 | People v. Hajjaj (Firme Hassan) |
| (8) | S050583 | People v. Howard (Demetrius Charles) [Automatic Appeal] |

GEORGE
Chief Justice

If exhibits are to be transmitted to this court, counsel must apply to the court for permission. (See Cal. Rules of Court, rule 8.224(c).)

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The following case summaries are issued to inform the public and the press of cases that the Supreme Court has scheduled for oral argument and of their general subject matter. Generally, the descriptions set out below are reproduced from the original news release issued when review in each of these matters was granted and are provided for the convenience of the public and the press. The descriptions do not necessarily reflect the view of the court or define the specific issues that will be addressed by the court.

TUESDAY, OCTOBER 5, 2010—9:00 A.M.

(1) *Martinez et al. v. Regents of the University of California et al.*, S167791

#08-176 Martinez v. Regents of University of California et al., S167791. (C054124; 166 Cal.App.4th 1121; Superior Court of Yolo County; CV052064.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case includes the following issues: (1) Does Education Code section 68130.5, which authorizes undocumented aliens and other nonresidents who attend and graduate from a California high school to pay in-state tuition for postsecondary education, violate 8 United States Code, section 1623 and/or section 1621? (2) Does section 68130.5 violate the rights of nonresident students under federal law in violation of the privileges and immunities clause of the Fourteenth Amendment?

(2) *People v. Diaz (Gregory)*, S166600

#08-159 People v. Diaz, S166600. (B203034; 165 Cal.App.4th 732; Superior Court of Ventura County; 2007015733.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. This case presents the following issues: (1) Was defendant's cell phone an item "immediately associated with the person of the arrestee" within the meaning of *United States v. Edwards* (1974) 415 U.S. 800, and thus subject to search incident to his arrest? (2) Was the warrantless search of the cell phone an hour and a half after the arrest, while defendant was being interrogated, invalid under *United States v. Chadwick* (1977) 433 U.S. 1?

1:30 P.M.

(3) *Pineda v. Bank of America, N.A., (Chin, J., not participating; Richli, J., assigned justice pro tempore), S170758*

#09-17 Pineda v. Bank of America, N.A., S170758. (A122022; 170 Cal.App.4th 388; Superior Court of San Francisco County; 468417.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issues: (1) When a worker files an action to recover penalties for late payment of final wages under Labor Code section 203, but does not concurrently seek to recover any other unpaid wages, is the statute of limitations the one-year statute for penalties under Code of Civil Procedure section 340, subdivision (a), or the three-year statute for unpaid wages under Labor Code section 202? (2) Can penalties under Labor Code section 203 be recovered as restitution in an Unfair Competition Law action (Bus. & Prof. Code, § 17203)?

(4) *People v. Albillar (Albert Andrew) et al., S163905*

#08-128 People v. Albillar (Albert Andrew) et al., S163905. (B194358; 162 Cal.App.4th 935; Superior Court of Ventura County; 2005044985.) Petition for review after the Court of Appeal affirmed judgments of conviction of criminal offenses. The court limited review to the following issue: Did substantial evidence support defendants' convictions under Penal Code section 186.22, subdivision (a), and the true findings with respect to the enhancements under Penal Code section 186.22, subdivision (b)?

(5) *People v. Foster (Richard Don) [Automatic Appeal]*

This matter is an automatic appeal from a judgment of death.

WEDNESDAY, OCTOBER 6, 2010—9:00 A.M.

(6) *Conservatorship of Whitley (Roy), S175855*

#09-65 Conservatorship of Whitley (Roy), S175855. (A122896; nonpublished opinion; Superior Court of Sonoma County; SPR061684.) Petition for review after the Court of Appeal affirmed an order denying attorney fees in a civil action. This case presents the

following issue: May an award of attorney fees under the private attorney general statute (Code Civ. Proc., § 1021.5) be denied because the prevailing party had a significant non-pecuniary personal interest in the outcome of the litigation?

(7) *People v. Hajjaj (Firme Hassan), S175307*

#09-61 *People v. Hajjaj (Firme Hassan), S175307*. (D054754; 175 Cal.App.4th 415; Superior Court of Riverside County; SWF024102.) Petition for review after the Court of Appeal reversed an order of dismissal of a criminal proceeding. This case presents the following issue: Did the trial court err in dismissing this case for violation of defendant's statutory right to a speedy trial when a courtroom became available on the last day for trial, but the courtroom was too far away for trial actually to commence on that day?

(8) *People v. Howard (Demetrius Charles) [Automatic Appeal]*

This matter is an automatic appeal from a judgment of death.